

UNITED STATES DISTRICT COURT

for the

Western District of Pennsylvania

Western Division

Miriam Osorio

Case No.

19-660
(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

1) TCV Community Services 2) Richard White
3) Dawn Berardo 4) Ashley Leonard Brinkman
5) Capital Healthcare Solutions Inc.

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Jury Trial: (check one) ☒ Yes ☐ No

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JUN 06 2019

CLERK, U.S. DISTRICT COURT
WEST. DIST. OF PENNSYLVANIA

COMPLAINT FOR A CIVIL CASE

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Miriam Osorio
Street Address	6717 wilson st
City and County	west mifflin Allegheny county
State and Zip Code	pa 15122
Telephone Number	
E-mail Address	m.tanyi@aol.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Pro Se 1 (Rev. 12/16) Complaint for a Civil Case

Defendant No. 1

Name	TCV Community Services
Job or Title <i>(if known)</i>	
Street Address	723 Braddock Avenue
City and County	Braddock Allegheny county
State and Zip Code	PA 15104
Telephone Number	412-351-0222
E-mail Address <i>(if known)</i>	

Defendant No. 2

Name	Richard White
Job or Title <i>(if known)</i>	
Street Address	236 renova st
City and County	Pittsburgh Allegheny county
State and Zip Code	pa 15207
Telephone Number	412-422-6764
E-mail Address <i>(if known)</i>	revrichdwhite@gmail.com

Defendant No. 3

Name	Dawn Berardo
Job or Title <i>(if known)</i>	
Street Address	4093 route 130
City and County	Irwin Allegheny county
State and Zip Code	pa 15642
Telephone Number	724-466-2385
E-mail Address <i>(if known)</i>	

Defendant No. 4

Name	Ashley Leonard Brinkman
Job or Title <i>(if known)</i>	
Street Address	635 E Waterfront Dr Apt 5213
City and County	homestead, Allegheny county
State and Zip Code	pa 15120
Telephone Number	724-674-9377
E-mail Address <i>(if known)</i>	

Defendant No. 5

Name Capital Healthcare Solutions Inc.

Job or Title (*if known*)

Street Address 40 Lincoln Way, suite 300a

City and County Irwin Allegheny County

State and Zip Code PA 15642

Telephone Number 412-772-1476

E-mail Address (*if known*)

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*



Federal question



Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

- 28 U.S. Code §4101(1) -Retaliation Under the Fair Labor Standards Act, Retaliation Under Title VII of the Civil Rights Act
- 18 U.S. Code §1513 -Civil rights act of 1964(National Origin)
- 29 U.S.C.A. §215(a)(3)
- Defamation,

B. If the Basis for Jurisdiction Is Diversity of Citizenship

1. The Plaintiff(s)

a. If the plaintiff is an individual

The plaintiff, *(name)* _____, is a citizen of the State of *(name)* _____.

b. If the plaintiff is a corporation

The plaintiff, *(name)* _____, is incorporated under the laws of the State of *(name)* _____, and has its principal place of business in the State of *(name)* _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)

a. If the defendant is an individual

The defendant, *(name)* _____, is a citizen of the State of *(name)* _____. Or is a citizen of *(foreign nation)* _____.

b. If the defendant is a corporation

The defendant, *(name)* _____, is incorporated under the laws of the State of *(name)* _____, and has its principal place of business in the State of *(name)* _____.

Or is incorporated under the laws of *(foreign nation)* _____, and has its principal place of business in *(name)* _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- | | |
|--|---|
| 1) Defamation of character | 8) Wrongful termination |
| 2) Retaliation Under the Fair Labor Standards Act, | 9) Harassment that resulted in tangible employment action |
| 3) Retaliation Under Title VII of the Civil Rights Act | 10) Harassment that created hostile work environment |
| 4) 28 U.S. Code §4101(1) | 11) Vicarious employer liability for unlawful harassment by supervisors |
| 5) 18 U.S. Code §1513 | |
| 6) 29 U.S.C.A. §215(a)(3) | |
| 7) Civil rights act of 1964 (National Origin) | |
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IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

\$21,500,000 punitive damages, \$300,000 each for each claim including emotional distress, \$2,500,000 for defamation of character (slander and libel). The defendants were involved in defaming plaintiff and in wrongful termination resulting in loss of work hours and pay.

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 06/04/2019

Signature of Plaintiff



Printed Name of Plaintiff Miriam Osorio

B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Street Address _____

State and Zip Code _____

Telephone Number _____

E-mail Address _____

III. Statement of Claim (continued)

~~_____~~ ^{asked} Britney [^] for me to do weekends in January ~~_____~~
~~_____~~

On Sunday Jan 6th night, Rich did not know who was coming in at 11pm to relieve me and the Delta T staff when he was asked by the Delta T staff around 6pm after bringing back two of the clients from church service. He said, "I don't know, someone will be here. Jacky (TCV Staff) is on vacation this week." He later came to Breezewood to do medications around 10:47pm after the Delta T staff had called him on the phone around 8:40pm and he did not say anything to me about not being on the schedule and he also did not tell me not to return the following weekend then we left and he stayed behind to do the overnight shift.

On Saturday Jan 12th evening, Rich came to the site to pass medications and asked why I was at the site and I said I am on the schedule still and I thought I was needed. He said Courtney (capital) was to be on the schedule and I told him I was not aware of that and no one called or email me about not coming in. He asked the Delta T staff Taihla Currington what happened with Courtney and she told him Courtney left when I got there and that Courtney wanted to leave and Rich said she was supposed to be doing the evening shift also and I asked him in his downstairs office if I am still needed or if he still needed me to continue working the weekends because I am still on the site schedule and I did not get a cancellation email or a cancellation call from Capital or

Britney and he said, "I don't know, I have staffing issues. You can speak to Capital." I said, "OK". He administered the medications then he left. He should at that time told me exactly that he did not want me to return then it would have ended there.

On Sunday Jan 13th evening, Rich came to the site and there was me and two Delta T employees and he yelled at us in an angry tone saying, "You all should have called me. I am not paying for 3 people to be here." Then he asked each of us what date we each were confirmed and Taihla said "last week", the other Delta T staff said, "Wednesday" and I said to him, "About two weeks ago with Britney". The 2 Delta T staff said that both of their other shifts had been cancelled by Brenda from Delta T in order for them to be at Breezewood (Taihla said she had an overnight shift that had been cancelled by Brenda and was told that she was needed at Breezewood and the other staff said she was told by Brenda that she was also needed at Breezewood). Then he said in a sarcastic tone, "Well!!!!!!!! One of you have to go. So who is going?" Then Taihla Currington (Delta T) volunteered to leave then she told Rich to make sure to add her on the site schedule for the following weekend. Rich told her, "OK, I will, just leave your time sheet on my desk and I will take care of it." Then he left and then Taihla was about to leave, he called the Breezewood house phone and I answered. He asked who was answering and I said it was me. He said, "Is the other girl still there who is leaving?" I said, "Yes." He said, "Let me talk to her." I handed the phone to her and they spoke then she left.

Saturday Jan 19th, 2019 I came to the site and I was told by Nicola Dempsey (TCV staff) and Edna B (capital staff) they have enough coverage. I said, "OK." Then I took the schedule off the kitchen wall and I went downstairs to make a copy of the schedule so that I could call Capital on my way out and I was also about to leave the 4 hours time sheet and then I was talking to Nicola and I said to her, "I had spoken to Britney and she had asked me to do the evening shift but that's fine, I am making a copy of the schedule and leaving my time sheet then I am leaving." Just as I was talking to Nicola, Edna comes downstairs and she was on her cellphone talking to Rich. She is yelling at me at the top of her voice, "YOU HAVE TO LEAVE. LEAVE NOW." I said, "OK. I am about to leave, let me just finish getting this copy and leave my 4 hours time sheet." Then, Edna screamed at me, "NO! YOU HAVE TO LEAVE. HE SAID YOU HAVE TO LEAVE NOW." I said to her, "I heard you, let me talk to Rich so I can tell him what I am doing then I am leaving." Edna yelled again, "NO! HE DOES NOT WANT TO TALK TO YOU." Then she came towards me and grabbed the schedule aggressively out of the copier and dangled it aggressively in my face then she pushed me. I said to her, don't touch me. I am not your child or an animal. You will not talk to me in that manner or yell at me anymore. I know my way. I was just making a copy and leaving my time sheet." She yelled again while still on the phone with Rich, "HE SAID HE WILL TAKE CARE OF IT AND FAX IT WHEN HE COMES IN." Edna keeps yelling at me to leave through the basement door as I was walking towards the stairs to go upstairs and get my cellphone. I told Edna, "I need to double check upstairs for the things I brought and then I am leaving. You don't need to yell at me as if I am a child or a dog." Then Edna said, "I need you to go so I attend to my pot on the stove." I went up the stairs and I got my phone. I told Edna, "I

don't care who you are but you don't talk to anyone or me in that manner. I am not your child or an animal." Then she hung up her phone and said Rich is on his way to the site. I left and there was another staff from Capital coming into the site and she was told also that she was not needed. I sat in my car and waited for Rich. When he arrived, I approached him outside and asked him, "What's going on? What's the matter?". He motioned his arm for me to follow him into the house. We went into the site and he said to me in front of the other staff, "When I am not here, Nicola is in charge and if she is not here, then Edna is in charge because she has been with me longer." I said, "OK. I was going according to what Britney said to me because she had asked me to do weekends in January." He then said, "You can go now." I said, "OK. I will like to talk to you downstairs one on one when you are done." He said, "I am not on call. I have things to do and I have to go and run some errands." I said, "OK. I just need a few minutes not too long." He then followed me to the basement and I was waiting outside. He called me back into the site, he said, "Come on in, it's cold outside." So I came back into the site. Nicola was sitting across from us still in the basement office. I asked him, "So, I spoke to you about two weekends ago and I asked you if you still needed me to do the weekend shifts and you did not say no and you still had me on your schedule on the wall." He said, "The schedule on the wall changes every week and it does not get updated immediately on the wall." I said, "That's fine. I was just confused and I wanted to clarify and now I know." Then he said, "It cannot be everyone else's fault but yours. I had sent 3 cancellation emails to Capital for you." I said to him, "I don't know anything about any cancellations. I did not get a call or an email that I was cancelled. Also, it is not cool what you did having another employee yelling at me while you were on the

phone with her. That's not cool and I am not a dog or a child to be barked at like that. I was trying to tell her what I was doing then I was leaving. I have helped you guys often and this is how I get treated. You could have just taken the phone and spoken to me and said to me that I was ^{not} needed and I was trying to tell you what I was doing but you refused to talk to me on the phone." He said, "Oh! Well. That's how you feel." shrugging his shoulder like he did not care about what I was saying. Then he said, "I thank you and goodbye." Then I left and he went back into the site.

Then on 01/24/2019 I received a call from Capital Healthcare Solutions Inc. Account Executive Missy Annesi and she said that I should not go to TCV DAS because I was cancelled from all subsequent shifts at TCV DAS unit by Ashley Leonard. I asked why and she said she could not tell me. Then I pressed on and she said that Richard White claimed that I stole things and food from the Breezewood site and that I am mean to the clients and to staff. Capital Healthcare Solutions Inc. and TCV Community Services did nothing to assist me when I complained about the harassment, hostility, and defamation of my name and character. Then Capital Healthcare Solutions Inc. sent me a letter in the mail stating that it was a verbal warning. I have always been an exemplary employee and lots of other companies' managers request me to work at their sites and there have never been an incident until when I worked for TCV Community Services under Richard White and Ashley Leonard. I complained to TCV IDD Director Dawn Berardo on 01/23/19 and she did nothing to help me then the following day 01/24/19 Ashley Leonard terminated me from TCV DAS unit shifts. (This is so untrue and

defaming. I never stole nor was I mean to clients and staff. Nicola and Jacky had said to Plaintiff's face that she was nice).